

Appl. No. 10/820,575
Office Action dated June 18, 2006.

REMARKS

Applicants appreciate the indication of allowable subject matter in the present application.

Applicants hereby add new claim 81 and amend claims 19, 49, 50, 51, 74, and 79. Accordingly, claims 19-21, 49-52, 59-60, 63-69, and 71-81 are pending in the present application.

Claims 19 and 79 are objected to. Claims 49-51, 59, 71, 73 and 78-80 stand rejected under 35 USC 103(a) for obviousness over U.S. Patent No. 3,441,737 to Topol. Claim 52 stands rejected under 35 USC 103(a) for obviousness over Topol in view of U.S. Patent No. 4,990,346 to Strippler et al. Claim 72 stands rejected under 35 USC 103(a) for obviousness over Topol in view of U.S. Patent No. 3,713,743 to Simms et al.

Applicants respectfully request reconsideration of the rejections and the objections.

OBJECTIONS

Claims 19 and 79

Claims 19 and 79 have been amended to overcome informalities objected to by the Office.

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REJECTIONS

Claim 49

Amended claim 49 recites "monitoring the turbidity of the subject material at a predefined vertical position within the container *without displacing the subject material.*"

Topol does not teach or disclose this claim limitation.

Topol teaches a sludge level testing device that is lowered into a settling tank containing fluid. Topol teaches that the testing device is immersed in the fluid of the settling tank. Accordingly, by immersing the testing device in the fluid, the testing device displaces at least a portion of the fluid.

Topol teaches a testing device that displaces fluid rather than a method of monitoring turbidity of subject material without displacing the subject material. Applicants have failed to identify any portion of Topol that teaches this claim limitation. Accordingly, Applicants respectfully request that the Office withdraw its rejection of claim 49.

Claims 50-59, 71-74, and 78-82

The claims which depend from independent claim 49 are in condition for allowance for at least the reasons discussed above with respect to amended independent claim 49. Accordingly, Applicants respectfully request that the Office withdraw its rejection of claims depending from claim 49.

Claim 50

Amended claim 50 recites *simultaneously* monitoring the turbidity of subject material at two predefined vertical positions within a container. Topol does not teach or disclose this claim limitation.

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Topol teaches a testing device having one light bulb and one photocell that measures turbidity at a single position within a settling tank. Topol does not teach or suggest simultaneously monitoring turbidity at more than one position. In fact, Topol teaches varying the depth of a single testing device to measure turbidity at a plurality of positions *over a period of time*.

Since Topol does not teach each of the limitations of amended claim 50, Applicants respectfully request that the Office withdraw its rejection of claim 50.

Claim 51

Amended claim 51 recites emitting and receiving electromagnetic energy that is not visible to humans. Topol does not teach or disclose this claim limitation.

Topol teaches a testing device that measures turbidity using a light bulb and a photo cell. Topol describes the photocell as developing "high electrical resistance in darkness and low resistance when illuminated."

Since Topol does not teach each of the limitations of amended claim 51, Applicants respectfully request that the Office withdraw its rejection of claim 51.

Claim 74

To expedite prosecution, claim 74, which recites allowable subject matter according to the last office action, has been rewritten in independent form, incorporating the limitations of claim 49. Accordingly, Applicants respectfully request that the Office withdraw its rejection of claim 74.

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NEW CLAIMS

Claim 81

Applicants hereby add new claim 81 which is supported at least by the teachings of Figures 2-3 and the respective description of these figures in the specification.

CONCLUSION

For the reasons described above, Applicants respectfully request allowance of all pending claims.


The Examiner is requested to phone the undersigned if the Examiner believes such would facilitate prosecution of the present application. The undersigned is available for telephone consultation at any time during normal business hours (Pacific Time Zone).

Respectfully submitted,

Dated: _____

11/16/06

By: _____


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